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W.P.No.34892 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.08.2026
DELIVERED ON : 03.09.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.34892 of 2026
and WMP Nos.38570 and 38573 of 2026

M.K.Stalin
Son of M.Karunanidhi,
No.25-9, Chitharanjan Salai,
Cenotaph 2nd Lane, Teynampet,
Chennai - 600 018.

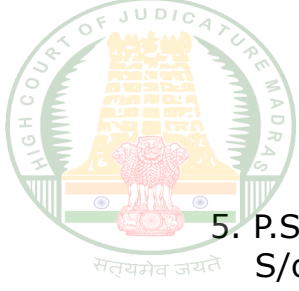
Petitioner(s)

Vs

1. The Election Commission of India
Nirvachan Sadan, Ashoka Road,
New Delhi - 110 001.
2. The Chief Electoral Officer
Public (Elections) Department, Secretariat,
Fort St.George, Chennai - 600 009.
3. The District Election Officer
Greater Chennai Corporation
Chennai - 600 003.
4. V.S.Babu
S/o. Sundaram Illai
New No.59, Old No.19, Muruga Bhavan,
Thirunavukarasu Street, Perambur,
Chennai - 600 011.



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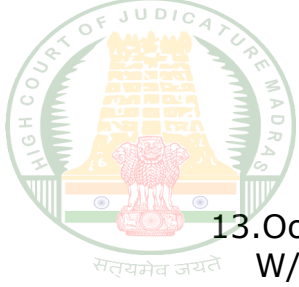


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5. P.Santhana Krishnan,
S/o Purushothaman,
No.12/103, Decastor Road, Pulianthope,
Chennai - 600 012.
6. Soundara Pandian Luder Seth
S/o Soundarapandiyar Muthu Nadar,
No.39/84, Saleem Lotus Flats,
Sathyamurthy Street, Devaraj Nagar,
Saligramam, Chennai-600 093.
7. S.Y.Syed Yusuf
S/o S.K.Syed Yacoob,
No.3a/31, Thillainayagam Pillai 3rd Street,
Venus, Perambur, Chennai-600 011.
8. Subashini
W/o Jagan Gopu,
No.290, Sri Vinayaga Nagar, 2nd Street
Anagaputhur, Chennai-600 070.
9. Aathithya
S/o Balasubramaniam,
No.421/28, Gkm Colony 21st Street,
Nethaji Street, Chennai-600 082.
- 10.R.Raj Guru
S/o Ramdass
No.33/32, Seeliyamma Koil Street,
V.O.C Nagar, Tondiarpet, Chennai-600 081.
- 11.R. Senthil Kumar
S/o S.Rajappan,
No.25/2, Alagiri Nagar 5th Cross Street,
Vadapalani, Chennai-600 026.
- 12.Selvi Steffi.V. M, D/o K.Mani,
No.23, Jawahar Street 4th Main Road,
Thirupathi Nagar Extension, Kolathur,
Chennai-600 099.



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13.Oormila

W/o P. Senthil Kumar,
No.10/13a, Gorikadu, Pallapatti,
Leigh Bazaar, Salem West, Salem-636 009.

14.J.Suriya Muthu

S/o E.Jayaraman,
No.59/24, 30th Mgr Street, Gkm Colony,
Chennai-600 082.

15.Nanda Kumar

S/o Basker,
No.18/2, Kadappa Road, Teachers Colony,
Kolathur, Chennai-600 099.

16.A.L.Naresh Kumar,

S/o E. Arumugam,
No.7/1/13, Foxen Street, Perambur,
Chennai - 600 011.

17.M.Rajeshkumar

S/o Mani Uthandi,
No.14, Pulianthope, Ward No.72,
TvK Nagar 4th Street, North Chennai,
Otteri, Chennai-600 012.

18.R.Mahesh

S/o P. S. Rajasekaran
No.25, Rc Flats, Anjugam Nagar
1st Main Road, Kolathur, Chennai-600 099.

19.M.Poornima

W/o G. Moorthy
No.72b, 1st Main Road, Prakash Nagar,
Ponnamman Medu, Madhavaram,
Chennai-600 110.



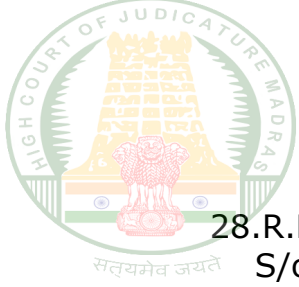
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- 20.P.Milany
S/o K. Ponnuram,
No.7-5-5/9, Sanjay Gandhi 1st Street,
Selavaraj Illam, Pallani Chetti Patti,
Theni- 625 531.
- 21.Arul Doss. A
S/o M. Anthony,
No.48/20m, Ponvelpuram 4th Street,
Ayanavaram, Chennai-600 023.
- 22.Vigirdhan
S/o Srinivasan,
No.233, Periyar Street, Kadambathur,
Tiruvallur-631 203.
- 23.V.Naresh Babu
S/o T.Venkataramanan
No.55/163, Maduraisamy Madam Street,
Sembium, Perambur, Chennai-600 011.
- 24.K.Panneer Selvam
S/o M Karunanithi,
No.61/3, Perumal Koil Street, Annambedu,
Thirunindravur Post, Thiruvallur-602 024.
- 25.E.Raamadasan
S/o Ellan,
No.490/5, V.O.C Nagar, Tondiarpet,
Chennai-600 081.
- 26.Kaja Maideen
S/o Sahulhameed,
No.75/38, Subramaniya Thottam Main
Street North, Perambur, Chennai-600 011.
- 27.S.Sharan
S/o Srinivasan,
No.48, Srp Koil St North,
Thiru.Vi.Ka Nagar, Jawahar Nagar,
Chennai - 600 082.



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28.R.Ravikumar
S/o Rajendran
No.95-45, Kathpada Main Road,
Basin Bridge, Chennai-600 021.

29.M.Suresh
S/o Manickam,
No.4, Sivasakthi Nagar 1st Main Road,
Kolathur, Chennai-600 099.

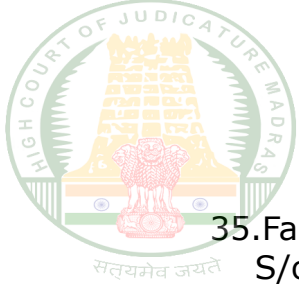
30.V.A.Sudhakar
S/o P.V. Ambikapathy
No.41a/73, Vasantha Garden 3rd Street,
Ayanavarm, Chennai-600 023.

31.Raja.G
S/o P.Govindasamy,
Plot No.1766, No.2, 29th Street,
Poombuhar Nagar, Chennai-600 099.

32.Sivagnanasam
S/o Thirumalaisamy,
No.23, J Apartments, Ground Floor
D Hospital Road, Kannamma Pettai,
Caveri Nagar, T Nagar, Chennai-600 017.

33.K.Elumalai
S/o Kullappan,
No.32, Kadappa Road, New Lakshmipuram,
Kolathur, Chennai-600 099.

34.A.Raji
S/o Anthony Samy,
No.3f-1, Avenue Garden, 14/6,
Balamurugan Street, Vyasarpadi,
Chennai-600 039.



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35.Farmer Jayaraman.S K J.

S/o Kanjaamalai,
Plot No. 11, Kumaraguru Avenue,
Sulaiman Nagar, 3rd Street, Mettukkkupam,
Okkiyam, Thoraipakkam, Chennai - 600 097.

36.R.Balaji

S/o Ravi
No.177, Demellows Road, Pattalam,
Perambur Barracks, Chennai-600 012.

37.S.Balachandar

S/o Sivaprakasam,
No.19/41, Madurai Street, Ayanavaram,
Chennai-600 023.

Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India seeking (a) issuance of a writ of certiorarified mandamus to call for the records of the third respondent leading to the issuance of the order bearing RC No.B/2002/2026, dated 5.8.2026 and quash the same and consequently direct the respondents to conduct 100% counting of VVPAT (Voter Verifiable Paper Audit Trail) slips relating to No.13, Kolathur Assembly Constituency for the Tamil Nadu Legislative Assembly Election 2026, and the checking and verification of all 286 machines deployed in No.13, Kolathur Assembly Constituency in the Tamil Nadu Legislative Assembly Election 2026, within a time frame fixed by this court; and (b) issuance of a writ of declaration to declare the election of the fourth respondent as the Returned Candidate for No.13, Kolathur Assembly Constituency in the Tamil Nadu Legislative Assembly Election 2026 as void and consequently declare the writ



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petitioner as the Returned Candidate for No.13, Kolathur Assembly Constituency in the Tamil Nadu Legislative Assembly Election 2026.

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For Petitioner(s): Mr.Kapil Sibal
Senior Counsel [Thru VC]
and Mr.J.Ravindran
Senior Counsel
for M/s.Aruna Elango and
Agilash Kumar

For Respondent(s): Mr.Dama Seshadri Naidu
Senior Counsel [Thru VC]
and Mr.G.Rajagopalan,
Senior Counsel
for Mr.Niranjan Rajagopalan
Standing Counsel
for R1 to R3

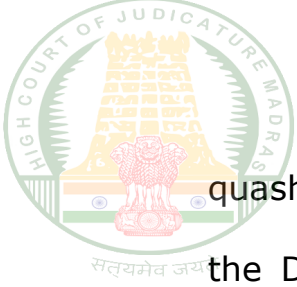
Mr.V.Raghavachari
Senior Counsel
for M/s.Dixita Gohil,
Pranjal Agarwal,
Yash S.Vijay for R4

Mr.G.Murugendran
for R37

ORDER

THE CHIEF JUSTICE

This writ petition has been filed by M.K.Stalin, who contested the recent general election to the 17th Tamil Nadu Legislative Assembly from No.13, Kolathur Assembly Constituency as the official candidate of the Dravida Munnetra Kazhagam, seeking to



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quash the order dated 05.08.2026 passed by the third respondent, the District Election Officer, Greater Chennai Corporation, bearing RC No.B/2002/2026, by which the post-result process of Checking and Verification of the burnt memory/microcontroller of Electronic Voting Machines and Voter Verifiable Paper Audit Trail units pertaining to fourteen polling stations in the said constituency was certified as having been "*successfully completed in accordance with the prescribed procedures*". The petitioner has also prayed for a direction for 100% counting of VVPAT slips, for a direction to preserve CCTV footage and connected records, and, going further, for a writ of declaration that the election of the fourth respondent, the returned candidate, be declared void and that the petitioner be declared the duly elected candidate from the said constituency.

2.1. Before advertng to the rival contentions, it is necessary to briefly set out the facts, which are drawn substantially from the petitioner's own affidavit filed in support of the writ petition.

2.2. The Election Commission of India notified the general election to the Tamil Nadu Legislative Assembly on 30.03.2026. The



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petitioner filed his nomination on the same date and contested from No.13, Kolathur Assembly Constituency on the symbol "Rising Sun".

Polling took place on 23.04.2026 and counting on 04.05.2026. On the latter date, the fourth respondent, the nominee of Tamilaga Vettri Kazhagam, was declared elected. The petitioner secured the second highest number of votes.

2.3. The petitioner relies on the judgment of the Supreme Court in *Association for Democratic Reforms v. Election Commission of India*¹, by which certain directions were issued for a post-result mechanism permitting the candidates placed at serial numbers 2 and 3, behind the returned candidate, to seek checking and verification of the burnt memory of the Control Unit, Ballot Unit and VVPAT in 5% of the machines used in the constituency, for any tampering or modification. Pursuant to these directions, the Election Commission issued an Administrative and a Technical Standard Operating Procedure, the latest consolidated version being dated 17.06.2025.

¹ (2025) 2 SCC 732



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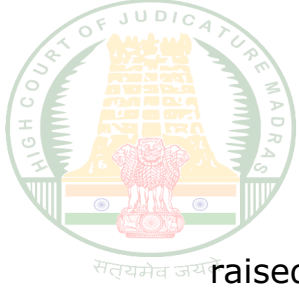
2.4. On 07.05.2026, the petitioner applied for such checking and verification in respect of fourteen polling stations, being 5% of the 286 polling stations in the constituency, and deposited the prescribed fee. The process commenced only on 29.07.2026, after a delay of nearly three months, and continued until 05.08.2026, when the third respondent addressed the impugned communication to the petitioner enclosing certified copies issued by the engineer of Bharat Electronics Limited in respect of the fourteen polling stations, declaring the process to have been carried out successfully.

2.5. In the course of the verification, the petitioner's authorised representative raised several objections. It was pointed out that the VVPAT units at Polling Station Nos.28 and 75 malfunctioned during the confirmatory mock poll; that the EVM carrying cases relating to Polling Station No.157 bore blank or irregularly sealed address tags, said to be in breach of Rule 49-T of the Conduct of Elections Rules, 1961; that two ballot units at Polling Station No.79 did not tally with the recorded address tags; and that, at Polling Station No.208, the Control Unit failed, on the very date of the impugned order, to detect a Ballot Unit said to bear the

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petitioner's name. The petitioner also complains that eighteen technical clarifications sought from the Bharat Electronics Limited engineer, and a request for the video recording of the proceedings, were left unanswered, and that no signed technical failure report was furnished in respect of any of these occurrences.

2.6. On this foundation, the writ petition has been filed, praying, in substance, for three sets of reliefs: first, a writ of certiorarified mandamus quashing the impugned order dated 05.08.2026 and directing 100% counting of VVPAT slips for the constituency, together with checking and verification of all 286 machines deployed therein; second, a direction to preserve CCTV footage, custody registers, address tags and allied material; and third, a writ of declaration that the election of the fourth respondent as the returned candidate be declared void, and that the petitioner be declared the duly elected candidate for No.13, Kolathur Assembly Constituency.



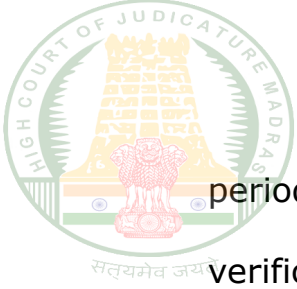
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3. When the matter was taken up, a preliminary objection was raised on behalf of the Election Commission of India as to the very maintainability of the writ petition.

4.1. Mr.Rajagopalan, learned Senior Counsel appearing for the Election Commission, referring to Article 329(b) of the Constitution of India and Section 80 of the Representation of the People Act, 1951, he submitted that the writ petition, in substance and effect, calls in question the election of the returned candidate and is, therefore, barred.

4.2. It is further submitted that the prayer for a recount, under the guise of 100% counting of VVPAT slips, is premature and not feasible to be considered in writ jurisdiction without the foundational facts, which ordinarily are required to be established before an Election Tribunal.

4.3. It is also submitted that the petitioner, if aggrieved, ought to have filed an election petition within forty-five days as prescribed under Section 80 of the Act, and cannot, merely because that

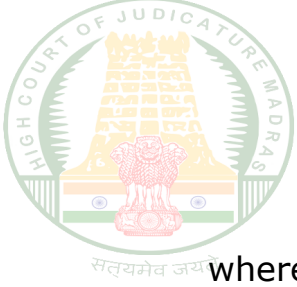


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period has since elapsed during the pendency of the administrative verification process, invoke the extraordinary jurisdiction of this Court to circumvent the bar.

4.4. He further submitted that, if writ petitions are entertained, it would amount to opening a Pandora's box, permitting every candidate placed second or third, dissatisfied with the outcome of the post-result verification exercise, to bypass the statutory forum and rush to this court, thereby defeating the very scheme of the Act.

5.1. Mr.Dama Seshadri Naidu, learned Senior Counsel, also appearing for the Election Commission of India, addressed the Court on the same preliminary objection and elaborated upon it further. Learned Senior Counsel submitted that the writ petition, though outwardly framed as a challenge to an administrative order certifying the completion of the verification process, is, on a fair reading, an alchemy of artful drafting designed to circumvent Article 329(b) of the Constitution of India.



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5.2. He drew attention to paragraph 38(f) of the affidavit, where the petitioner has expressly pleaded that the bar under Article 329(b) of the Constitution of India does not apply because the writ petition does not "*call in question*" the election, but is directed only at the verification process, and to paragraph 41, where reliance is placed on a decision of the Supreme Court in *K.Venkatachalam v. A.Swamickan*², for the proposition that Article 226 of the Constitution of India may be invoked notwithstanding Article 329(b) of the Constitution of India, where the impugned act is contrary to law or the Constitution and no other remedy is available. Learned Senior Counsel submitted that these very paragraphs, far from assisting the petitioner, betray the true character of the relief sought, which is nothing short of a declaration that the election of the returned candidate is void and that the petitioner be declared elected in his place, a relief that lies at the very heart of an election dispute and can be granted, if at all, only by an Election Tribunal in a duly instituted election petition.

² (1999) 4 SCC 526



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5.3. Learned Senior Counsel further relied upon Section 97 of the Act, which deals with recrimination by the returned candidate or any other party when a declaration is sought that a candidate other than the returned candidate has been duly elected. He pointed out that the petitioner has impleaded thirty-three other contesting candidates as parties, and submitted that this itself confirms that what the petitioner truly seeks is a determination that he ought to be declared elected, a determination that necessarily attracts the procedural safeguards, including notice of recrimination, available only in the trial of an election petition, and wholly foreign to a writ proceeding.

5.4. Learned Senior Counsel also relied upon Section 100 of the Act, and, in particular, sub-clauses (iii) and (iv) of clause (d) of sub-section (1), which speak of improper reception, refusal or rejection of votes, and of non-compliance with the provisions of the Constitution of India, the Act or the Rules materially affecting the result of the election. He submitted that the very irregularities pleaded by the petitioner, such as malfunctioning VVPAT units, alleged breach of Rule 49-T of the Rules, and the non-detection of a

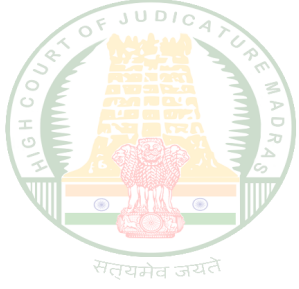


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ballot unit by the Control Unit, are grounds that fall squarely within these statutory provisions, and that sub-clause (iv), being a residual clause, would in any event cover them. Such grounds, according to learned Senior Counsel, are triable only upon evidence, and require proof that the result of the election, insofar as it concerns the returned candidate, has been materially affected, an exercise wholly unsuited to writ jurisdiction.

5.5. Learned Senior Counsel further submitted that the decision in *Association for Democratic Reforms* (supra), heavily relied upon by the petitioner, is distinguishable on facts, and does not assist the petitioner's case on maintainability, particularly having regard to the observations of the Supreme Court at paragraph 89 thereof, which reads thus:

"89. *In arguendo, even if the CCE Report is taken on face value and it is believed that the EVM-VVPAT system can be hacked, can it be said that there is absence of a redressal mechanism for the same? **Should there be hacking, resulting in violation of a right of an elector in any manner, and if there be proof adequate enough to upturn an election result, the law already has in place a remedy i.e.***



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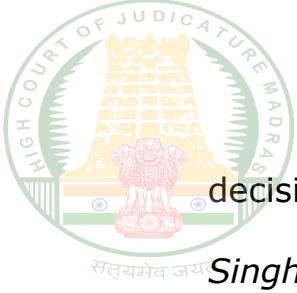
an election petition under Section 80 of the RoP Act. Such an election petition can be filed not just by an aggrieved candidate, but also by a voter, within 45 (forty-five) days from the date of declaration of the result of election. Since there is already a remedy in law to allay the fears that have been expressed by the petitioners, if and when a discrepancy in the results arises, the courts are not powerless to uphold the sanctity of the democratic process by appropriate intervention."

[emphasis supplied]

He submitted that the said judgment introduced the post-result verification mechanism as an additional safeguard for public confidence in the EVM system, and did not, even remotely, contemplate that an order passed under that mechanism could be assailed under Article 226 of the Constitution of India in a manner that bypasses the statutory election petition remedy.

5.6. He also placed strong reliance on a decision of the Supreme Court in *Election Commission of India v. Ashok Kumar*³, for the proposition, culled out from the two Constitution Bench

³ (2000) 8 SCC 216



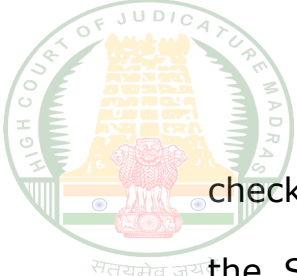
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decisions in *N.P.Ponnuswami v. Returning Officer*⁴ and *Mohinder Singh Gill v. Chief Election Commissioner*⁵, that intervention under Article 226 of the Constitution of India during or after the election process is permissible only in the narrowest of circumstances, and that a clear case of *mala fides*, together with the absence of any effect of retarding or protracting the election proceedings, must be made out before such intervention is countenanced. He submitted that no case of *mala fides* has been pleaded against the Election Commission or its officers anywhere in the affidavit, and that, on the contrary, the entire grievance is one of alleged procedural irregularity and non-application of mind, which are matters that fall squarely within Section 100 of the Act and are triable only by the Election Tribunal.

6.1. Mr.Kapil Sibal and Mr.J.Ravindran, learned Senior Counsel appearing for the petitioner, resisted the preliminary objection. Learned Senior Counsel submitted that the writ petition is directed not against the conduct of the election or its result, but against a distinct and separate post-result administrative process, viz., the

⁴ AIR 1952 SC 64

⁵ (1978) 1 SCC 405



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checking and verification of the burnt memory of the EVMs, which the Supreme Court itself, in *Association for Democratic Reforms* (supra), has recognised as a mechanism independent of the election proceedings.

6.2. It is submitted that the impugned order is vitiated by non-application of mind and breach of natural justice, that vital evidence in the form of CCTV footage and custody records is liable to be lost unless preserved by an order of this Court, and that the forty-five day period for filing the election petition having lapsed on account of the delay attributable to the respondent authorities themselves, the petitioner has no other efficacious remedy.

6.3. Reliance is placed on the decision in *K.Venkatachalam* (supra) in support of the submission that Article 226 of the Constitution of India remains available where the act complained of is contrary to law and no recourse can be had to the provisions of the Act for appropriate relief.



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7. Having heard learned Senior Counsel on both sides at length, and having perused the affidavit filed in support of the writ petition, the impugned order and its enclosures, and the judgments relied upon by the parties, the short question that falls for consideration is whether the present writ petition, as framed, is maintainable, or whether it is barred by Article 329(b) of the Constitution of India read with Section 80 of the Representation of the People Act, 1951.

8. It is well settled that the word "*election*" occurring in Article 329(b) of the Constitution of India is used in a wide sense, so as to connote the entire process which culminates in a candidate being declared elected, commencing with the notification and ending with the declaration of the result. It is equally well settled that where the relief sought would have the effect of interrupting, obstructing or protracting the election proceedings, or where it seeks, directly or indirectly, an adjudication upon the validity of the declared result, resort to Article 226 of the Constitution of India is impermissible, and the grievance, however genuine, must await the institution of



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an election petition, the sole remedy contemplated by the Constitution and the Act for that purpose.

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9. The present writ petition cannot, in our opinion, be said to be confined to the post-result verification process alone. While the body of the affidavit is, no doubt, structured around the alleged infirmities in the checking and verification exercise, the reliefs actually prayed for travel far beyond that exercise. The petitioner does not merely seek a fresh or more thorough verification, he seeks a declaration that the election of the fourth respondent, the returned candidate, is void, and a further declaration that he himself be declared the duly elected candidate for No.13, Kolathur Assembly Constituency. These are reliefs that go to the very root of the election and its result. No matter how the pleadings are structured, a prayer of this description is, in substance, nothing but a challenge to the correctness of the election and squarely attracts the bar under Article 329(b) of the Constitution of India.

10. The submission of Mr.Dama Seshadri Naidu, learned Senior Counsel, that the writ petition bears the character of artful



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drafting is not without force. Paragraph 38(f) of the affidavit itself anticipates and seeks to pre-empt the very objection now under consideration, by asserting that the challenge does not “*call in question*” the election. Such a self-serving characterisation cannot determine the true nature of the proceeding, which has to be gathered from the reliefs actually claimed, read as a whole. When a petitioner asks this court to declare a duly notified return void, and to declare himself elected in place of the returned candidate, he is doing precisely what Article 329(b) of the Constitution of India forbids him from doing outside the framework of an election petition.

11. The reliance placed on Section 97 of the Act by learned Senior Counsel for the Election Commission is well founded. A prayer for a declaration that a candidate other than the returned candidate has been duly elected is a distinct species of relief under Part VI of the Act, attracting the procedure of recrimination, whereby the returned candidate, or indeed any other contesting candidate, may, upon notice, set up a case that the election of the person claiming to have been duly elected would itself be void. This



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is a safeguard built into the statutory scheme to ensure that no candidate is declared elected without an opportunity being given to every other candidate whose interest may be affected. The petitioner's own affidavit, by arraying thirty-three other contesting candidates as respondents, tacitly recognises the need for such an exercise. The said exercise, involving notice, recrimination and trial on oral and documentary evidence, cannot be undertaken in a writ petition and, in our considered view, it reinforces the objection to maintainability.

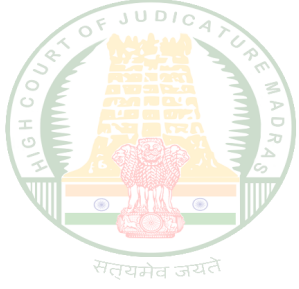
12. The reliance on Section 100 of the Act is equally well founded. The grounds now pressed before this Court, viz., the alleged malfunction of VVPAT units during the mock poll, the alleged breach of Rule 49-T of the Rules concerning address tags and seals, and the non-detection of a ballot unit by the Control Unit, are grounds falling within sub-clauses (iii) and (iv) of clause (d) of sub-section (1) of Section 100 of the Act. As has been held in *Ashok Kumar* (supra), sub-clause (iv) operates as a residual, catch-all provision, taking within its fold any non-compliance with the provisions of the Constitution, the Act or the Rules that is not



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specifically covered elsewhere in Section 100 of the Act. Every one of the irregularities pleaded by the petitioner would, if established, fall to be examined under this provision, subject always to the further requirement, built into Section 100 of the Act itself, that such non-compliance be shown to have materially affected the result of the election insofar as it concerns the returned candidate. Such an inquiry that calls for a full-fledged trial, including expert evidence on the technical functioning of the EVM and VVPAT units, cannot be undertaken on affidavits in writ jurisdiction.

13. It is in this context that the submission on recount, advanced by Mr.Rajagopalan, learned Senior Counsel, assumes significance. The petitioner has, in effect, asked this Court to direct 100% counting of VVPAT slips and a fresh checking and verification of all 286 machines in the constituency. *Assuming arguendo* that such a course in a given case is warranted, it can only be ordered by the Election Tribunal upon the petitioner first establishing, through evidence, a prima facie case and not in writ jurisdiction, where the Court has neither the material nor the procedural apparatus to test the correctness of such a claim.



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14. This Court has also considered the argument that, if writ petitions of this nature are entertained, it would open a Pandora's box. There is substance in the apprehension. If every such anomaly, as pleaded in this writ petition, is made a basis for filing the writ petition seeking to unseat the returned candidate and to declare the runner-up elected, the statutory scheme of election petitions, hedged as it is with limitation, verified pleadings, security for costs and recrimination, would be rendered wholly illusory. Every defeated candidate placed second or third would have a ready alternative to the election petition, and the finality that Article 329(b) of the Constitution of India seeks to secure for the constitution of legislative bodies would be lost.

15. This brings the court to the petitioner's reliance on *Association for Democratic Reforms* (supra). The said judgment, as the affidavit itself recites, was concerned with directions to strengthen public confidence in the integrity of EVMs by providing an additional post-result safeguard, permitting candidates placed second or third to seek verification of a sample of machines.



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Nothing in that judgment suggests that an order passed under the resultant Standard Operating Procedure was intended to be justiciable under Article 226 of the Constitution of India in derogation of the statutory election petition remedy, or that the Supreme Court intended to carve out, for this narrow category of post-result verification, an exception to the constitutional bar under Article 329(b) of the Constitution of India. The verification mechanism was engrafted as an additional safeguard and not in substitution of the remedy of an election petition and, in fact, if any material is gathered during such verification, it would go to strengthen the evidentiary foundation of an election petition, rather than furnish an independent cause of action in writ jurisdiction. The reliance placed on that judgment, therefore, does not advance the petitioner's case on maintainability.

16. Equally, the reliance on *K.Venkatachalam* (supra) does not assist the petitioner. That was a case where a continuing disqualification of a sitting member, arising after the declaration of the result, was in issue, and the Supreme Court was concerned with the question whether Article 226 of the Constitution of India could



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be invoked to correct a continuing wrong in the teeth of Article 329(b) of the Constitution of India. The observations relied upon in that judgment must be read in that context and cannot be transplanted to a case such as the present, where what is assailed is the very conduct of a post-poll verification process going to the correctness of the count, and where the relief claimed is the invalidation of the election and the substitution of the returned candidate, which is a matter falling foursquare within Section 100 of the Act.

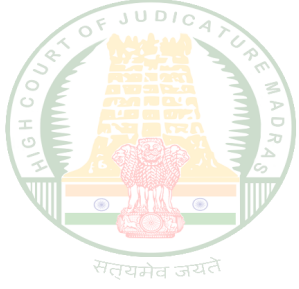
17. For completeness, this Court records the submission of Mr.Kapil Sibal, learned Senior Counsel, that the forty-five day period prescribed under the Act has already elapsed by the time the verification process itself was completed, and that the petitioner is thereby left without a remedy. This Court is not persuaded that this circumstance can enlarge the jurisdiction of this Court under Article 226 of the Constitution of India in the face of the express constitutional bar under Article 329(b) of the Constitution of India. Whether, and to what extent, the delay occasioned by the verification process hinges on the computation of limitation under



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the provisions of the Act, and whether any relief in that regard is available to the petitioner, are matters that are to be examined by the Election Tribunal in the first instance, upon an election petition being presented, and this Court expresses no opinion on that question one way or the other. Suffice it to observe that a difficulty of this kind, even where genuine, is not a ground on which the constitutional bar under Article 329(b) of the Constitution of India can be circumvented. It is, at best, a ground to be urged before the forum vested with jurisdiction to try the dispute.

18. For the reasons set out above, this Court holds that the writ petition, in substance and effect, calls in question the election of the fourth respondent as the returned candidate for No.13, Kolathur Assembly Constituency, and is barred by Article 329(b) of the Constitution of India read with Section 80 of the Act. The remedy of the petitioner, if any, lies in an election petition before the appropriate forum, where all the grounds now urged, including those touching upon the Checking and Verification process, may be agitated, subject to the petitioner establishing that the alleged non-compliance has materially affected the result of the election.



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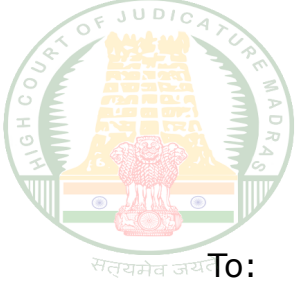
19. In view of the above finding on maintainability, this Court does not consider it necessary to examine the merits of the allegations levelled against the Checking and Verification process, or the correctness of the impugned order dated 05.08.2026 and, therefore, express no opinion thereon. All contentions on merits, including those relating to the alleged breach of Rule 49-T of the Rules, the malfunction of the VVPAT units, and the non-detection of the ballot unit at Polling Station No.208, are left open to be urged before the appropriate forum, if so advised.

The writ petition is, accordingly, dismissed as not maintainable, with liberty to the petitioner to pursue such remedy as may be available to him in law. There shall be no order as to costs. Connected miscellaneous petitions, if any, are closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)

03.09.2026

Index : Yes
Neutral Citation : Yes
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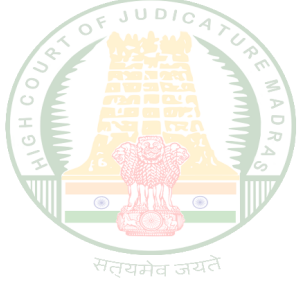


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To:

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1. The Election Commission of India
Nirvachan Sadan, Ashoka Road,
New Delhi - 110 001.
2. The Chief Electoral Officer
Public (Elections) Department, Secretariat,
Fort St.George, Chennai - 600 009.
3. The District Election Officer
Greater Chennai Corporation
Chennai - 600 003.



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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

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03.09.2026